

In the Matter Of:

MELVIN NEAL vs
VICTOR P. MASON
3:18-CV-590-CWR-FKB

ANTHONY SIMON

September 28, 2020



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1 role as a corrections officer?

2 A. Yes.

3 Q. All right. Do you know how many?

4 A. No, sir.

5 Q. Do you know when they were filed?

6 A. No, sir, not right off.

7 Q. Do you know if there was more than one
8 filed, naming you as a defendant?

9 THE WITNESS: Can I ask you a question?

10 When he says --

11 MS. RILEY: Well --

12 THE WITNESS: -- "defendant" --

13 MS. RILEY: Timeout. Timeout. Timeout.

14 Let him reask his question, and if I
15 think we need to object -- otherwise, we'll
16 step outside. But answer his question the
17 best you can until -- put an answer out
18 there.

19 THE WITNESS: Okay.

20 MR. CARR: Yeah. And if it's easier for
21 me to step outside, since y'all are both in
22 here, I'll step --

23 MS. RILEY: Yeah.

24 MR. CARR: -- out- --

25 MS. RILEY: Will --

1 Q. Okay. Sorry. He did grab it from you --

2 A. Yes.

3 Q. -- correct?

4 A. Yes.

5 Q. And, at that time, you put your hands on
6 him to try to get it back out of his hand.

7 Is that fair to say?

8 A. Yes.

9 Q. All right. Now, when Melvin Neal grabbed
10 that joint or whatever it was from you, he was not
11 in restraints, correct?

12 A. No, he wasn't.

13 Q. And he wasn't in leg shackles either, was
14 he?

15 A. No, he wasn't.

16 Q. So he wasn't in hand restraints or leg
17 restraints, correct?

18 A. Correct.

19 Q. And the only -- is it fair to say, even
20 though you may have seen marijuana before, that the
21 only person who saw this potential contraband was
22 you, right?

23 A. No, sir.

24 Q. Well, we agree it wasn't ever tested,
25 right?

1 A. Yes.

2 Q. It wasn't ever found, right?

3 A. Right.

4 Q. And there wasn't ever any pictures taken of
5 it, right?

6 A. Right.

7 Q. There's no video of it, right?

8 A. Right.

9 Q. And other than you saying that you believed
10 it was a joint, who else is going to testify it was
11 a joint?

12 MS. RILEY: Objection.

13 But you can answer.

14 A. I don't know if it was a joint. It looked
15 like a joint, you know, rolled up like a joint from
16 a picture I done seen. But I had two more
17 supervisors that also seen it --

18 Q. (By Mr. Carr) Okay.

19 A. -- along with Mr. Neal.

20 Q. Okay. So the way you said it made it sound
21 like he quickly popped it in his mouth, but maybe
22 there was time for other people to see what you were
23 looking at?

24 A. Yes, sir, just like --

25 Q. All right. Explain that for the jury.

1 this leg and his arm?

2 A. I grabbed him by his arm.

3 Q. You grabbed him by his arm?

4 A. By one of his arms, and he punched me with
5 the other.

6 Q. Where did he punch you?

7 A. My chest. That's when I grabbed the other
8 arm -- tried to grab it, but he was fighting.
9 That's when my sergeant grabbed a leg, one caught
10 the other arm. And we grabbed him and took him to
11 the ground and placed the cuffs on him.

12 Q. Okay. All right. At -- on December 28,
13 2017, are you about the same size you are now?

14 A. Yeah. Yeah, a little.

15 Q. And how big are you? How tall are you?

16 A. I'm 6'2", and I weigh 350 pounds.

17 Q. Okay. Are you an ex-football player or
18 anything?

19 A. No, sir.

20 Q. All right. Did you play sports in high
21 school?

22 MS. RILEY: Objection.

23 But you can answer.

24 A. I played in the ninth grade.

25 Q. (By Mr. Carr) Ninth grade what?

1 belt or on your person.

2 And when I say "tools," I don't mean like
3 wrenches, but did you have a radio?

4 A. I didn't. I didn't have any tools at that
5 time, sir.

6 Q. Did you have any spray?

7 A. No, sir.

8 Q. Did you have handcuffs?

9 A. No, sir.

10 Q. Did you have a taser?

11 A. No, sir.

12 Q. All right. And was it common for you not
13 to have a radio as a detention officer?

14 A. No, sir, I have my office right there --

15 Q. Okay.

16 A. -- where we were doing -- where we were
17 doing the intake at.

18 Q. All right. Do you normally keep a radio on
19 your belt or on your person?

20 A. Yes, sir.

21 Q. You just didn't have one on that day?

22 A. Yes.

23 Q. All right. So when you say strong muscled
24 him to gain control, is that before or after you
25 realized he swallowed the contraband?

1 said okay. And then they went back to their --

2 A. Well, he had to sign the medical refusal.

3 Q. Okay.

4 A. So we took the restraints off and let him
5 sign the medical refusal.

6 Q. And then you put restraints back on?

7 A. Yeah, she wanted a legal document signed,
8 that you know -- he had to document.

9 Q. Did he appear to have any physical
10 injuries, sir?

11 A. No, sir. The only thing he kept saying,
12 his rib. "Y'all hurt my rib."

13 Q. All right. In addition to saying that his
14 rib was hurt, tell me -- even though it may be cuss
15 words, but tell me exactly what he was saying about
16 y'all.

17 A. He said, "Y'all are some weak-ass police.
18 Fuck y'all. Y'all on that police shit, that strong
19 man shit. This ain't the street. This is jail.
20 Y'all on that strong man shit. I'm going to kill
21 your ass, Simon. I'm going to kill your ass."

22 Q. Okay. How did he know your name was Simon?

23 A. I be at the work center since I've been
24 back in 2014.

25 Q. Okay. A lot of people know who you are?

1 Internal Affairs.

2 Q. Yeah. So describe for me that process.

3 MS. RILEY: Objection.

4 But answer to the extent you know.

5 A. He come up -- the Internal Affairs came up
6 and questioned me and --

7 Q. (By Mr. Carr) And just so we can be clear,
8 that was Marlo Brennan?

9 A. Mr. Brennan, yes.

10 Q. Okay. Go ahead.

11 A. He came up and questioned me and recorded
12 me and took notes, however he do his investigation.
13 And he told me they'll be getting back with me, if I
14 need -- if they need to get back with me. I
15 heard -- I never heard anything else on it.

16 Q. Did he put you on a recorder?

17 A. Yes, sir, he did.

18 Q. Do you know if you were on a video
19 recorder, too, or just audio?

20 A. I know audio, but I'm not for sure about
21 video. I can't recall.

22 Q. Did he tell you he was audio recording you?

23 A. Yes, he did.

24 Q. Okay. Did you have to sign any type of
25 waiver or anything to be recorded? Do you remember?